

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)

Telecommunications Relay Services)
And Speech-to-Speech Services for)
Individuals with Hearing and Speech)
Disabilities)

CC Docket No. 98-67

COMMENTS ON PETITIONS FOR RECONSIDERATION

Hands On Video Relay Services, Inc. (“Hands On”) submits its comments in support of the petitions for reconsideration filed on or about July 30, 2003 to the Bureau’s prescription of an interim VRS reimbursement rate of \$7.751. In support, the following is shown:

The formal petitions for reconsideration filed by Sprint Corporation (“Sprint”), AT&T Corp., Communications Services for the Deaf, Inc. and Sorensen Media, Inc., as well as the many comments from the using deaf and hard of hearing community all agree that the prescription of an interim rate of \$7.751 disserves the public interest, threatens the continued availability of quality VRS service, and is contrary to the statutory mandate of Section 225 because it denies deaf and hard of hearing persons functionally equivalent telecommunications service.

Hands On will not repeat the points it made in its own petition for reconsideration and confidential supplement thereto, nor the points made by its brethren VRS providers. Certain points, however, bear emphasis.

First, the petitioners have shown that substantial differences exist between VRS and VRI. Most notably is the issue of VI utilization rates. The VRS utilization rate is much lower than the utilization rate of VRI due to the need to have an on demand, round the clock service, without substantial wait times. While the VRI utilization rate can approach 50%, current VRS traffic levels do not allow a utilization rate much above 10 – 15%. Moreover, VRS equipment and software, reporting, legal and outreach requirements add substantial additional cost to the service. Under these circumstances, a VRS rate, as much as five times the prevailing rate for VRI, is completely understandable. As demand increases, VRS costs have and will decrease. We are simply not now at a point where \$7.751 adequately compensates VRS providers, however.

Second, it is essential that the Commission resolve this issue with expedition. As Sprint points out (Petition at 9), no VRS “provider knows what compensation it will receive for services currently provided.” Moreover, it appears all VRS providers have been required as a result of the \$7.751 rate to make cut backs in the services offered. These include shorter hours and fewer VIs on duty. Hands On has seen its wait times increase substantially. Even then, Hands On is operating at a loss. Ultimately, it is the deaf and hard of hearing users of VRS who are paying the price for the non-compensatory VRS rate. They are being denied functionally equivalent telecommunications services in violation of the requirements of Section 225 of the Act. They may be denied the service altogether if the Commission does not act quickly.

Third, the Commission's use of an 11.25% rate of return on investment only is an inappropriate profit model for VRS. VRS providers are entitled to a fair profit sufficient to stimulate participation in the industry of concerns offering a quality product. Cf. Sprint Petition at 11 n. 17 (discussing cost plus government contracts). Sprint convincingly shows that the 11.25% figure is inappropriate given that:

1. It was prescribed for dominant carriers;
2. The industry was capital intensive;
3. The demand was stable;
4. The concerns could file tariffs adjusting their rates during the applicable period if they fell short of earnings;
5. The carriers were not subject to complaints of over-earning.

Sprint Petition at 12.

VRS providers are in a nascent industry. That industry is labor intensive. Demand is dynamic. Competition exists and is increasing. The funding mechanism is temporary and uncertain. And technological innovation is necessary to meet temporary FCC waivers, provide functional equivalence, and make the service available to all persons who could benefit from it. Under these circumstances, a much more appropriate profit model is one which is based on a percentage of projected costs, rather than return on investment only.

In sum, the Commission should immediately grant the various petitions for reconsideration, reinstate the \$14.023 recommended NECA rate on an interim basis, promptly resolve the issue of the appropriate reimbursement rate for 2003-04 crediting

the expenditures necessary to provide quality, technologically advanced VRS service approaching, to the extent possible, the goal of functional equivalence for the deaf and hard of hearing community.

Respectfully submitted,

HANDS ON VIDEO RELAY SERVICES, INC.

By: /s/ George L. Lyon, Jr.
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August 26, 2003

CERTIFICATE OF SERVICE

I, Funmi Feyide, a law clerk in the law offices of Lukas, Nace, Gutierrez & Sachs, Chartered, do hereby certify that I have on this 26th day of August, 2003, sent by hand delivery or U.S. Mail, copies of the foregoing Comments on Petition for Reconsideration to the following:

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